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AUSTIN, TX 78701

In re Application of  
NIR TAL, ET AL.  
Application No. 09/771010  
Filing date: January 26, 2001  
For: COMMUNICATION SYSTEM  
WHICH DYNAMICALLY SWITCHES  
SIZES OF SAMPLE BUFFER BETWEEN  
FIRST SIZES FOR QUICK RESPONSE  
TIME AND SECOND SIZE FOR  
ROBUSTNESS TO INTERRUPT  
LATENCY

:  
:  
: DECISION REFUSING STATUS  
: UNDER 37 CFR §1.47(a)  
:

This is in response to the renewed "Petition Under 37 CFR §1.47(a)," filed on April 17, 2001.

The petition is dismissed.

A grantable petition under 37 CFR §1.47 (a) requires:

- (1) proof that the signing inventor cannot be reached or refused to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

The Petitioner lacks item (1) and (2) set forth above.

In order to establish a bona fide diligent effort pursuant to 37 CFR §1.47 (a), Petitioner must demonstrate the diligent effort to reach the inventor. Petitioner has shown that correspondence was mailed to Mr. Ron Cohen but returned as undeliverable. In addition, an e-mail to Sharley Torri from Eti De-Leon states that "I can approach him because he is sitting in offices across our offices." Given that Mr. Cohen can be reached via Eti De-Leon, applicant has failed to demonstrate that Mr. Cohen cannot be reached.

As to item (2), both available inventors must make the declaration on behalf of joint inventor Cohen. A declaration signed by joint inventor Tal on behalf of Cohen is also required.

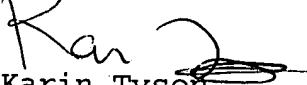
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By fax: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
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Telephone inquiries regarding this decision should be directed to the undersigned at (703)306-3159.

  
Karin Tyson  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
For Patent Policy and Projects